

In the Matter of)
)
FEDERAL AVIATION ADMINISTRATION)
)
Request for Waiver of Section 87.107(a) of the)
Rules for Aircraft Operated by Maintenance)
Personnel)

⁶ *Id.*

consisting of the company name, the word “maintenance” and the last three letters of the “N” number of the aircraft. For example, an appropriate station identification for an aircraft operated by maintenance personnel, according to the FAA, would be “United Maintenance 123 Uniform Alpha” in lieu of “Boeing November 123 Uniform Alpha.”⁷ The FAA states that granting this request will improve airport safety by simplifying communications with air traffic control, allowing air traffic controllers to ascertain that a maintenance person is operating the aircraft instead of a pilot, and reducing runway incursions caused by maintenance technicians.⁸

4. *Discussion.* On March 13, 2002, the Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, released a Public Notice seeking comment on the *Waiver Request*.⁹ In response, we received one comment, from Tom J. Abraham, the Aircraft Maintenance Manager for United Airlines in Chicago.¹⁰ Mr. Abraham concurs that a waiver of the station identification rule is warranted for aircraft operated by maintenance personnel, but he disagrees with the example of an appropriate station identification offered by the FAA.¹¹ He says that it is neither necessary nor desirable to keep the “Uniform Alpha” phrase in the station identification, and that there should be no reference at all to the “N” number. The use of the “N” number, according to Mr. Abraham, can result in two or more aircraft having the same sequence of digits in the station identification, and thus engender the same type of confusion that the requested waiver relief is intended to address.¹² Mr. Abraham asserts that the station identification for aircraft being moved at an airport by maintenance personnel should consist of the airline’s name, the word “maintenance” and a number designated by the airline to avoid duplicative station identifications.¹³

5. We find that granting the requested waiver will serve the public interest by reducing the potential safety risks posed by aircraft being taxied by maintenance technicians. The Commission must take a “hard look” at waiver requests and may exercise its discretion to waive a rule if requiring strict compliance would be inconsistent with the public interest.¹⁴ With specific regard to requests for waiver of the rules governing wireless telecommunications services, the Commission may grant such a waiver if it is shown either that (1) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (2) in view of unique or unusual factual circumstances of the instant case, application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.¹⁵

⁷ *Id.*

⁸ *Id.*

⁹ Wireless Telecommunications Bureau Seeks Comment on Request for Waiver of Aircraft Station Identification Requirement, *Public Notice*, 17 FCC Rcd 4602 (WTB PSPWD 2002) (*Public Notice*). Although the FAA stated that it was seeking an “exemption” from the rule, we determined in the *Public Notice* that we would treat the request as a request for a waiver.

¹⁰ Comments from Tom J. Abraham, United Airlines, submitted by e-mail March 20, 2002.

¹¹ *Id.* at 1.

¹² *Id.*

¹³ *Id.*

¹⁴ See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also 47 C.F.R. § 1.3.

¹⁵ 47 C.F.R. § 1.925(b)(3).

6. In this case, a federal agency entrusted with matters of aviation safety has represented that the requested waiver will promote public safety and has explained why that is so.¹⁶ The only commenting party also favors a waiver of Section 87.107(a), differing with the FAA only with respect to the specific terms of the waiver. No party has suggested that the waiver will not promote public safety or result in any negative consequences, much less any negative consequences that might outweigh the identified benefits to public safety. We conclude on the basis of this record that grant of a waiver of Section 87.107(a) will not undermine the purpose underlying the rule, which is to ensure that aircrews and aeronautical stations adhere to safe and uniform procedures regarding identification of their radio transmissions;¹⁷ rather, a waiver will further that purpose by providing a better means of readily identifying certain aircraft. In addition, a waiver will be in the public interest because it will facilitate communications with air traffic ground control, reduce runway incursions by taxiing aircraft operated by maintenance technicians, and generally enhance airport safety for airline employees and the traveling public.

7. Based on the record, we believe that it is not necessary for us to prescribe in all particulars the aircraft station identification format to be used under this waiver. Instead, we will permit the use of a station identification that includes the name of the company owning or operating the aircraft and the word "Maintenance." We will allow the airlines themselves to determine what other alphanumeric characters should be included in the station identification, trusting that they will exercise their discretion in this regard so as to avoid duplicative or confusing station identifications. Should experience suggest that this is not the case, we will revisit the issue if requested.

8. *Conclusion.* For the reasons set forth herein, we find that a waiver of Section 87.107(a) will serve the public interest, and we hereby grant the waiver. This waiver permits the use of the alternative station identification at airports nationwide. We emphasize, however, that the waiver permits deviation from the station identification requirements of Section 87.107(a) only for aircraft that are being moved by maintenance personnel from one area in an airport to another area in that airport.

9. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, the Request for Waiver of the Federal Aviation Administration., Great Lakes Region, filed February 26, 2002, is GRANTED TO THE EXTENT STATED HEREIN.

10. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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¹⁶ The Commission generally defers to the FAA as expert agency for air safety. *See, e.g.,* Streamlining the Commission's Antenna Structure Clearance Procedure, *Memorandum Opinion and Order and Order on Reconsideration*, WT Docket No. 95-5, 15 FCC Rcd 8676, 8679 ¶ 5 (2000); City of New York Municipal Broadcasting System, *Decision*, 91 FCC 2d 635, 654 ¶ 50 (1982).

¹⁷ Amendment of Part 87 of the Commission's Rules to Change the Requirements for Aircraft Identification in Radio Communications, *Report and Order*, Docket No. 17430, 13 FCC 2d 711, 711 ¶ 2 (1968).